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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

To: The Commission

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**REPLY COMMENTS OF  
UNIVISION COMMUNICATIONS INC. AND  
REQUEST FOR ADJUSTMENT OF THE PROPOSED DTV ALLOCATION TABLE**

Univision Communications Inc. ("UCI"), by its attorneys, hereby submits its reply comments with regard to the Commission's Sixth Further Notice of Proposed Rule Making in the above-referenced proceeding.<sup>1/</sup> UCI owns and operates the Univision Network, the largest Spanish-language television network in the United States. The Univision Network has 39 television affiliates nationwide, 20 of which are full-power television stations. Through its subsidiary, Univision Television Group, Inc. ("UTGI"), UCI is the licensee of eleven full-power and seven low-power UHF Spanish-language television stations.<sup>2/</sup>

In its initial comments in this proceeding, UCI supported the Commission's goal of replicating existing NTSC service areas in the DTV allocation table, but expressed concerns that

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<sup>1/</sup> Sixth Further Notice of Proposed Rule Making, Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268 (released August 14, 1996).

<sup>2/</sup> UCI's full-power stations include KLUZ-TV, Albuquerque, NM; KUVN, Garland, TX; KFTV, Hanford, CA; WGBO-TV, Joliet, IL; KMEX-TV, Los Angeles, CA; WLTV, Miami, FL; WXTV, Paterson, NJ; KTVW-TV, Phoenix, AZ; KXLN-TV, Rosenberg, TX; KWEX-TV, San Antonio, TX; and KDTV, San Francisco, CA. UCI's LPTV stations include K48AM, Albuquerque, NM; K30CE, Austin, TX; KABE-LP, Bakersfield, CA; KUVN-LP, Fort Worth, TX; W47AD, Hartford, CT; WXTV-LP, Philadelphia, PA; and K52AO, Tucson, AZ.

the specific approach being proposed by the Commission would not achieve such replication. Specifically, UCI urged the Commission to use as its standard for replication the most up-to-date engineering database available at the time of issuance of a final allotment table, including those modified contours contained in any applications filed before release of the Commission's Sixth Further Notice of Proposed Rule Making. UCI also urged the Commission to protect these modified NTSC contours from interference when drafting the final table of DTV allotments. Finally, UCI opposed the use of a core spectrum for DTV because of the greatly increased displacement of LPTV stations that such an approach would entail.

UCI is filing these reply comments to address two additional service replication issues that have arisen since the filing of UCI's initial comments in this proceeding. The first is an error which exists in both the Commission and the MSTV/Broadcasters Caucus DTV allocation tables and which unnecessarily places DTV signals on both the upper and lower adjacent channels to UCI's KMEX-TV in Los Angeles. The second issue involves the recent industry discussions in which UCI, through its counsel, has participated, regarding the DTV power levels necessary to replicate existing UHF and VHF NTSC contours in the UHF band.

**I. THE FCC'S PROPOSED DTV ALLOCATION TABLE, AS WELL AS THE TABLE SUBMITTED BY MSTV/BROADCASTERS, UNIQUELY DISADVANTAGES KMEX-TV AND IS INACCURATE WITH REGARD TO THE CHANNELS USED AND AVAILABLE IN THE LOS ANGELES MARKET**

1. UCI, through UTGI, operates UHF station KMEX-TV, Los Angeles, California. KMEX-TV is one of the nation's oldest Spanish-language television stations, and delivers the programming of the Univision Network to the residents of Los Angeles. KMEX-TV operates on Channel 34. Because of the large number of stations in the Los Angeles area, the number of vacant channels available for the transition to DTV is limited. UCI was therefore not surprised that both the FCC and MSTV/Broadcasters proposed that KMEX-TV's DTV operation be

located on a channel adjacent to Channel 34 (the FCC proposed Channel 35 and MSTV/Broadcasters proposed Channel 33). A similar arrangement is being proposed for at least one other Los Angeles station. To the extent that no other vacant channels are available, these proposals are consistent with the stated goal of avoiding the allocation of DTV channels adjacent to NTSC channels unless the DTV facility is to be operated by the licensee of the adjacent NTSC channel.<sup>3/</sup>

2. Starkly inconsistent with that goal, however, is the proposed placement of DTV allocations for non-UCI stations on KMEX-TV's other adjacent channel. The FCC's proposed DTV table places the DTV operation of KTLA on Channel 33 (with KMEX-TV's NTSC channel being 34 and its DTV channel being 35). The MSTV/Broadcasters table places the DTV operation of KNBC on Channel 35 (with KMEX-TV's NTSC channel being 34 and its DTV channel being 33). Thus, regardless of which proposal is adopted, KMEX-TV will have a non-UCI station on its adjacent channel, and, more importantly, will be the only NTSC station licensed to Los Angeles with DTV stations operating on both adjacent channels.

3. In fact, under either the FCC or MSTV/Broadcasters proposal, KMEX-TV (NTSC Channel 34) will have DTV operations on not only both of its first adjacent channels, but also on both of its second adjacent channels (Channels 32, 33, 35, and 36). While significant interference to KMEX-TV's NTSC operations is a virtual certainty under either of these proposals, the situation is worsened by the fact that KNBC and KTLA are the two highest powered stations licensed to Los Angeles. Under the FCC's table, both KNBC and KTLA are

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<sup>3/</sup> The Commission stated in the Sixth Further Notice of Proposed Rule Making that avoidance of adjacent channel interference was one of its objectives in creating its proposed DTV allocation table. *Id.* at ¶ 83. The Broadcasters stated at Page 21 of their comments that avoidance of DTV channels adjacent to non-co-owned NTSC channels was the highest objective in creating the MSTV/Broadcasters table.

proposed to operate with more than ten times the DTV equivalent of KMEX-TV's NTSC power level. Such a power disparity on an adjacent channel will likely obliterate KMEX-TV's NTSC signal, and its service to the Hispanic residents of the Los Angeles area.

4. While the severe harm that such DTV allocations would create for KMEX-TV's NTSC transmissions in a major market like Los Angeles would be devastating to any broadcast licensee, it is particularly harmful to UCI. According to the most recent Nielsen data, over 21% of all Hispanics in the United States reside in the Los Angeles DMA. Los Angeles is in fact the sixth largest Hispanic city in the world. The severe degradation that will be caused to KMEX-TV's signal would not only have a disproportionately severe economic impact upon UCI, but would severely affect television service for one out of every five Hispanics in the United States.

5. When UCI, through its counsel, made inquiries of MSTV as to why KMEX-TV was being so uniquely disfavored by the proposed use of both adjacent channels, it was told that there were no other vacant channels available for DTV. As a result, MSTV/Broadcasters was forced to violate its "prime directive" prohibiting use of adjacent channels by non-co-owned stations. Given the FCC's similar proposal, it appears that the FCC faced a similar problem. While UCI lacks the DTV allocation software to verify that use of both of KMEX-TV's adjacent channels is necessary, or that it is also necessary to allocate these adjacent channels to stations operating with ten times the power of KMEX-TV, UCI has recently learned that both the FCC and MSTV/Broadcasters proposals are based on an erroneous engineering database.

6. Among the Los Angeles stations included in both the FCC and MSTV/Broadcasters DTV allocation tables is KEEF-TV. KEEF-TV was a construction permit held by Black Television Workshop of Los Angeles, Inc. for a non-commercial station assigned to NTSC Channel 68. In 1992, Administrative Law Judge Joseph Chachkin revoked the construction permit for KEEF-TV based on findings of misrepresentation, rule violations, and an

unauthorized transfer of control of the permittee. See Black Television Workshop of Los Angeles, Inc., 7 FCC Rcd 7819 (ALJ 1992). The revocation of the permit was affirmed by the Commission in 8 FCC Rcd 4192 (1993), and reconsideration of that decision was denied in 8 FCC Rcd 8719 (1993).

7. Despite the revocation of the construction permit, KEEF-TV has remained in the Commission's engineering database during judicial appeal of the permit revocation. Apparently for this reason, both the FCC and MSTV/Broadcasters included KEEF-TV Channel 68 in their DTV allocation tables, with the FCC proposing Channel 36 as KEEF-TV's DTV channel and MSTV/Broadcasters proposing Channel 60. Since the release of the Sixth Further Notice of Proposed Rule Making, however, the permittee has exhausted its appeals, with the United States Supreme Court denying certiorari on June 24, 1996 (116 S.Ct. 2548), and denying a petition for rehearing of that decision on August 27, 1996 (117 S.Ct. 21). As a result, Channel 68 is now available for DTV allocations in Los Angeles, as is Channel 36 in the FCC DTV table, and Channel 60 in the MSTV/Broadcasters DTV table. UCI has advised MSTV/Broadcasters of the availability of these channels and understands that this information will be incorporated into future DTV allocation tables.

8. Use of these channels in Los Angeles for DTV allocations will reduce the intense spectrum congestion in Los Angeles and the interference associated with it. Given the uniquely severe interference that KMEX-TV will suffer under both of the currently proposed DTV tables, UCI requests that, regardless of which DTV table is adopted, the Commission utilize these newly vacant channels to remove from KMEX-TV's adjacent channels any DTV allocation not being allocated for KMEX-TV's DTV operation. This will place KMEX-TV on an equal footing with every other television station in Los Angeles and prevent the substantial diminution in service to Hispanic viewers that a high power, adjacent channel, non-UCI DTV operation would cause.

UCI therefore strongly urges that the Commission adopt this change in the FCC's final DTV allocation table.

**II. UCI SUPPORTS THE APPROACH TO DTV POWER LEVELS  
CONTAINED IN THE INDUSTRY CONSENSUS AGREEMENT  
BEING SUBMITTED TO THE COMMISSION TODAY**

9. As one of the largest UHF station owners, UCI has supported the goal of DTV replication of existing NTSC service. UCI is concerned, however, as to whether that goal will actually be achieved with the DTV power levels currently being proposed for UHF stations. Both the FCC and MSTV/Broadcasters DTV allocation tables are premised on the unrealistic notion that the average viewer will utilize an elevated outdoor antenna with significant signal gain. While this may have been a fair presumption when the NTSC standard was originally adopted, it is clearly not the case today.

10. The advent of cable television (which is unlikely, at least initially, to carry DTV signals), and restrictive covenants prohibiting use of outdoor antennae, have made the rooftop antenna a rarity. Similarly, the proliferation of multiple television sets in American homes has made it impractical to run wiring throughout a house to connect all of the television sets to a single rooftop antenna. As a result, even if a home does have a rooftop antenna, the antenna is likely connected to only one of several television sets in the house, with the rest using the indoor antenna included with the set. Finally, an increasing number of individuals live in multiple unit dwellings, where an outdoor antenna is not possible. These individuals must therefore contend not only with the limited capabilities of an indoor antenna, but with the many urban obstacles blocking line-of-sight reception and the increased level of ambient electronic interference from neighbors' appliances.

11. Because UCI's Spanish-language audience resides in predominantly urban areas where multiple dwelling units are the most common type of residence and indoor antennae are

the norm, UCI is critically concerned that its DTV signal reach not just the rooftops of its audience, but that it arrive with sufficient signal strength to penetrate the structure and deliver a clear signal to indoor antennae. This is even more critical with DTV than it is with NTSC. A weak NTSC signal is still viewable and indicates to the viewer that a clearer picture may be obtained with an antenna adjustment or a better antenna. Because of the "cliff effect" of DTV, however, a weak DTV signal provides no picture at all, and potential viewers will therefore be unaware that the station is even available to them through a better (or better adjusted) antenna. Given the multitude of new channels that the DTV transition will bring to viewers, as well as the relocation of stations during the eventual repacking of the spectrum, it will be easy for a weak DTV signal to get lost in the shuffle -- particularly if its reception requires a precise orientation of the indoor antenna that is at odds with the reception of other stations.

12. In short, replication of a UHF station's NTSC coverage on a UHF DTV station (a "UHF/UHF" station) requires more than just getting a signal to the rooftops in a certain geographic area; it requires the transmitter power to reach into those homes. Stated most precisely, the goal of the DTV transition is not so much the replication of signal contours, but the replication of *service*. UCI accepts the fact that the service contours of its UHF/UHF DTV stations will be smaller than those of VHF/UHF stations, but UCI cannot afford to abandon viewers within its service contours merely because they lack an outdoor antenna or ideal receiving conditions.

13. The inability of a UHF/UHF station to reach all or nearly all of the viewers within its service contours is exacerbated by the Commission's proposal to authorize immense power levels for VHF/UHF DTV stations in an effort to replicate their extensive NTSC service contours. While these power levels will allow VHF/UHF stations to reach over the radio horizon through the sheer brute force of transmitter power, they will also allow such stations to deliver an

intensely powerful signal closer to the transmitter. The high signal strength of VHF/UHF DTV stations will allow far greater penetration of physical obstructions than that of UHF/UHF DTV stations within their respective service contours. More importantly, the disparity in signal strength will allow easy reception of VHF/UHF DTV stations on indoor and low gain antennae, while UHF/UHF DTV stations may not be receivable at all, even though the receiver is well within the UHF/UHF DTV station's service contour. The problem is not that a VHF/UHF station's service contour is larger than that of a UHF/UHF station. The problem is that a VHF/UHF station's level of service within its service contour will be so much greater than the level of service a UHF/UHF station will be able to deliver within its own service contour.

14. It is difficult, given the current lack of DTV interference and propagation data, to quantify the extent of the service disparity that will result from the DTV allotment proposals. Depending on the UHF/UHF power levels ultimately allocated, UCI and many other UHF stations are concerned that, in a real world scenario, they may be able to reach only 50% of potential viewers in their DTV Grade A contour, while VHF/UHF stations will have ready access to almost every viewer in their Grade A contour. UHF/UHF stations cannot afford to lose any potential viewers located within their already limited service contours.

15. The economic and competitive hardships on UHF/UHF stations caused by the signal strength disparity with VHF/UHF stations within a market will be intensified by the ongoing development of many new computing devices that utilize low gain indoor antennae to receive data embedded in DTV broadcasts. Many broadcasters are hoping that the revenues generated by this developing market will help fund the costly transition to DTV. However, given the small, indoor, low gain antennae that many of these technologies will use, UHF/UHF DTV stations will be unable to deliver a sufficiently reliable signal more than a few miles from their transmitter site. This will effectively exclude UHF/UHF stations from this developing market

for data services, and information providers will be forced to compete for space on the strong signals of the VHF/UHF stations in the market. Worse, markets that have only UHF/UHF stations may be unable to utilize these new information technologies entirely.

16. Because of these concerns, UCI, through its counsel, has participated in industry discussions aimed at solving the problem of signal strength disparity. The consensus reached as a result of these discussions is to be submitted to the Commission today in the reply comments of the Broadcasters Caucus. Under the approach outlined, UHF/UHF stations would be allowed to operate at increased power for a two year period while information is collected regarding their operation at these increased power levels. At the end of this time, the FCC and an independent group of experts would review the "real world" data collected over the two year period and make any necessary adjustments to DTV power levels indicated by the data. The consensus agreement also contains several initiatives to improve receiving antenna technology, expand service to the public, and allow broadcasters to eventually maximize their facilities. UCI understands that the precise details of this consensus are being discussed in the reply comments of the Broadcasters Caucus, and UCI will therefore not repeat them here.

17. In short, UCI supports adoption by the Commission of the approach set forth in the industry consensus and applauds the efforts of both broadcasters and the Commission to achieve a cooperative and fair result in this complex endeavor. It is vital that the long-anticipated arrival of DTV results not only in a pristine picture, but a picture that is easily accessible to all of a station's potential viewers.

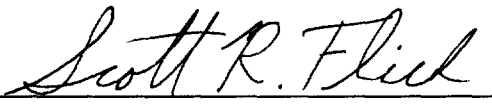
### **CONCLUSION**

For the reasons described herein, UCI urges the Commission to reexamine its DTV allocation table with regard to the Los Angeles market and utilize the newly available channels to eliminate the placement of a DTV competitor on a channel adjacent to KMEX-TV's NTSC

operation. Given the incomplete information on DTV to NTSC adjacent channel interference, the vastly greater power allocated to the adjacent channel DTV operation, the reliance of a major portion of the market's Hispanic population on KMEX-TV's Spanish-language programming, and the fact that KMEX-TV is the only Los Angeles station proposed to be placed in such a disadvantaged situation, UCI believes that such an adjustment to the DTV allocation table is clearly in the public interest. UCI also urges the Commission to adopt the approach to DTV power allocations contained in the industry consensus outlined in the reply comments of the Broadcasters Caucus.

Respectfully Submitted,

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Dated: January 24, 1997